



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 07166-99

17 February 2000

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 16 November 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to find the reporting senior did not counsel you concerning your performance. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. Finally, the Board was unable to find the reporting senior lacked enough experience evaluating Marines to render a valid appraisal. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

7166-99

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7166-99

IN REPLY REFER TO:
1610
MMER/PERB
NOV 16 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
STAFF SERGEANT [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] Form 149 of 3 Sep 99
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 3 November 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980402 to 980930 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the marks in Section B are inconsistent with the comments contained in Section C. To support his appeal, the petitioner furnishes his own statement detailing his disagreements with several of the assigned Section B markings, cites the Reviewing Officer's disagreement with the evaluation, and provides a copy of a Navy and Marine Corps Achievement Medal citation.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board stresses that the award of the Navy and Marine Corps Achievement Medal, while certainly noteworthy, has no impact on the challenged fitness report. The period of performance for the award began on 8 November 1998 -- more than a month after the end of the reporting period at issue.

b. The Board further emphasizes that the Reviewing Officer's nonconcurrence does not negate the Reporting Senior's evaluation. It is the responsibility of the Reviewing Officer to offer a broader and more learned perspective into the performance evaluation cycle, and that is precisely what Captain [REDACTED] has accomplished.

c. Contrary to the petitioner's arguments and assertions, the Board discerns absolutely no inconsistency between any of the

63J PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
 ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
 STAFF SERGEANT [REDACTED] USMC

ratings assigned in Section B and the comments contained in Section C. Both areas are fully complimented by each other, and while not "outstanding", the report conveys overall satisfactory performance.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED]'s official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
 Evaluation Review Board
 Personnel Management Division
 Manpower and Reserve Affairs
 Department
 By direction of the Commandant
 of the Marine Corps